

FILED

MAY 22 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

Clerk, U.S. District Court
District Of Montana
Missoula

KEITH M. BAITY,

Plaintiff,

vs.

UNITED STATES POSTAL
SERVICE, UNITED STATES
JUSTICE DEPARTMENT, and
UNITED STATES MARSHALS
SERVICE,

Defendants.

CV 17-175-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on January 22, 2018, recommending to dismiss Plaintiff Keith Baity's ("Baity") Complaint (Doc. 2) against multiple Defendants. (Doc. 3.) Judge Lynch recommended that Baity's claims against the United States Postal Service be dismissed as barred by the doctrine of res judicata and Baity's claims against the United States Department of Justice and the United States Marshals' Service be dismissed as barred by sovereign immunity and the Court's resulting lack of jurisdiction. (Doc. 3 at 10.) Baity timely objected to the Findings and Recommendations, and is entitled to de novo review of those findings to which he

specifically objects. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

“A party makes a proper objection by identifying the parts of the magistrate’s disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result.” *Montana Shooting Sports Ass’n v. Holder*, 2010 WL 4102940, at *2 (D. Mont. Oct. 18, 2010) (citation omitted).

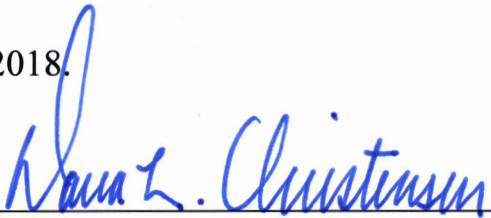
Here, Baity’s objections are in the form of a twenty-one page letter addressing President Trump and Attorney General Sessions. (*See* Doc. 4.) Baity references the legal recommendations made in Judge Lynch’s Findings and Recommendations only inasmuch as Baity claims that “no one is immune” (Doc. 4 at 8), and that the Constitution provides him with the right to trial (*see* Doc. 4 at 3–4). As to Judge Lynch’s recommendation regarding res judicata, Baity makes no specific legal or factual objection, thus the Court will review for clear error. As

to Judge Lynch's recommendation regarding sovereign immunity, Baity's objection fails to make any nonfrivolous legal argument. The Court will review this claim for clear error as well. L.R. 72.3(a); *see also McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Finding none,

IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 3) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Baity's Complaint (Doc. 2) is DISMISSED WITH PREJUDICE.

DATED this 22nd day of May, 2018.



Dana L. Christensen, Chief Judge
United States District Court